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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/612,870

07/02/2003

Mohamed A. Salim

51306/889:1

6986

33451 7590 06/05/2008

DATALOGIC - STOEL RIVES LLP

C/O STOEL RIVES LLP

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SUITE 2600

PORTLAND, OR 97204

EXAMINER

WALSH, DANIEL I

ART UNIT

PAPER NUMBER

2887

MAIL DATE

DELIVERY MODE

06/05/2008

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/612,870	<b>Applicant(s)</b> SALIM ET AL.	
	<b>Examiner</b> DANIEL WALSH	<b>Art Unit</b> 2887	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 52-57, 60-62, 67-76 and 84-86 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 67-83, 85 and 86 is/are allowed.
- 6) ☒ Claim(s) 52-57 and 60-62 is/are rejected.
- 7) ☒ Claim(s) 84 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____.  |

### **DETAILED ACTION**

Receipt is acknowledged of Amendment received on 2-25-08. Claims 77-83, previously withdrawn, are now considered.

#### ***Claim Rejections - 35 USC § 102***

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claims 52-54 are rejected under 35 U.S.C. 102(b) as being anticipated by Andersen et al. (US 2002/0011933).

Re claim 52, Andersen et al. teaches a method of operating a checkout system having a POS terminal coupled to a data reader and EAS system, the method comprising operating in an automatic activation mode whereby the EAS system is automatically activated in response to a signal from the data reader of a good read of a product code; operating in a manual activation mode whereby the EAS system is manually activated by action of an operator (FIG. 2 and paragraph [0032] which teach automatic activation of EAS based on scanning and manual activation based on the user manually entering the data). As manual activation is performed to deactivate a tag, it is detected. An indication of the detected manual activation is interpreted as being taught through the counter (paragraph [0032]) which records activation of the EAS system to deactivate tags. This is interpreted as storing an indication of the detected manual activation of the EAS system because when manual activation is performed, it is logged and stored, thus storing an indication.

Re claim 53, the Examiner has interpreted that detecting occurs at the EAS system since the EAS system is activated. Paragraph [0030] teaches the indication (counter result) is sent to the first computer, interpreted as a POS terminal or host.

Re claim 54, the Examiner notes that receiving the indication is interpreted as receiving the indication.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

4. Claims 55-56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andersen et al., as discussed above.

Re claim 55, paragraph [0056] teaches recording log on/log off of the operator. Though silent to storing an identifier of the operator in association with the stored indication of the

manual activation, it would have been obvious to one of ordinary skill in the art to store an identifier of the operator who is logged on/performing the transaction, in for record keeping purposes/accountability.

Re claim 56, though silent to date and time recording, it would have been obvious to record such information as part of the logging, for more detailed record keeping/accountability.

5. Claims 55-57 and 60-62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Andersen et al., as discussed above, in view of Canipe et al. (cited in previous Office Action).

Re claims 55-56, the teachings of Andersen et al. have been discussed above.

Andersen et al. is silent to the operator logging and identifier as claimed, and date and time recording re claim 56.

Canipe et al. teaches logging transactions (paragraph [0047]).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Andersen et al. with those of Canipe et al.

One would have been motivated to do this for accountability/record keeping. An identifier of a operator is an obvious expedient to denote the specific operator.

Though silent to date and time recording, it would have been obvious to record such information as part of the logging, for more detailed record keeping/accountability.

Re claim 57, the teaching, as discussed above, Canipe et al. teaches logging tags that required manual deactivation (paragraph [0046]). This is interpreted as a data code corresponding to a predetermined machine readable code (coded data corresponding to the barcode read).

At the time the invention was made, it would have been obvious to one of ordinary skill in the art to combine the teachings of Andersen et al. with those of Canipe et al.

One would have been motivated to do this to expand on just a count data, to include data corresponding to the actual coded item read, in order to provide more information regarding manual deactivation of an item, thereby providing more data for recording keeping purposes, and targeting items/manufacturers.

Re claim 60, though silent to a special UPC, the Examiner notes that UPCs that are unique/special to each item are known and conventional in the art as a well accepted way to identify items to be read.

Re claims 61-62, logging/recording has been discussed above, as have transmitting to a server/host/backroom controller.

#### ***Allowable Subject Matter***

1. Claims 67-83 and 85-86 are allowed.
2. Claim 84 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
3. The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach the limitations of the independent claims, including the details of the data code/special data code, it not being a product, transmitting, and selecting as claimed (see claim 67 and 84).

***Response to Arguments***

Applicant's arguments with respect to the claims (except for 67-86) have been considered but are moot in view of the new ground(s) of rejection. (See above).

***Conclusion***

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (See PTO-892).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to DANIEL WALSH whose telephone number is (571)272-2409. The examiner can normally be reached on M-F 9am-7pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Paik can be reached on 571-272-2404. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/DANIEL WALSH/  
Primary Examiner, Art Unit 2887